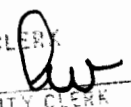


U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

2014 SEP 26 PM 4:05
CLERK
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James Mathews,

Plaintiff,

v.

Case No. 5:12-cv-58

Andrew Pallito, Correct Care
Solutions, Inc., Trudee Ettlinger,
and Lori Bull,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION**
(Docs. 37, 63, 70)

This matter came before the court for a review of the Magistrate Judge's July 30, 2014 Report and Recommendation ("R & R"). Plaintiff has filed an Amended Complaint under 42 U.S.C. § 1983, along with various provisions of state law. The Plaintiff claims that Department of Corrections healthcare officials and others provided him with improper medical care. (Doc. 37.) The Defendants have filed a Motion for Summary Judgment. (Doc. 63.) The Plaintiff opposes this motion. Neither party has objected to the R & R, and the deadline for doing so has expired.


A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *accord Cullen*, 194 F.3d at 405. A district judge, however, is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and

recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974), *cert. denied*, 419 U.S. 879 (1974).

In his R & R, the Magistrate Judge reviewed the factual record at length and properly determined that Plaintiff's claims under 42 U.S.C. § 1983 should be dismissed and the court should not exercise supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367(c)(3). The court agrees. It therefore ADOPTS the Magistrate Judge's R & R as the court's Order and Opinion, and GRANTS Defendants' Motion for Summary Judgment. (Doc. 63.) The court, however, dismisses all of Plaintiff's claims, including his state law claims and those set forth in his Amended Complaint (Doc. 37), WITHOUT PREJUDICE. *See Mitchell v. Lyons Prof'l Servs., Inc.*, 708 F.3d 463, 467 (2d Cir. 2013) (dismissal with prejudice "should be used only in extreme situations").

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 26th day of September, 2014.



Christina Reiss, Chief Judge
United States District Court